

AF/2700

Form: PTO/SB/17 (Modified)

**REPLY/AMENDMENT  
FEE TRANSMITTAL**

Attorney Docket No. 95-427

Application Number 09/604,880

Filing Date June 28, 2000

First Named Inventor WHEELER

Group Art Unit 2122

AMOUNT ENCLOSED

\$ 0

Examiner Name

GROSS, Kenneth

**FEE CALCULATION** (fees effective 10/01/2001)

CLAIMS AS AMENDED	Claims Remaining After Amendment	Highest Number Previously Paid For	Number Extra	Rate	Calculations
TOTAL CLAIMS	26	26	0 <sup>(3)</sup>	X \$18.00 =	\$0
INDEPENDENT CLAIMS	4	4	0	X \$84.00 =	\$0
Since an Official Action set an <u>original</u> due date of ____, petition is hereby made for an extension to cover the date this reply is filed for which the requisite fee is enclosed (1 month (\$110); 2 months (\$400); 3 months (\$920); 4 months (\$1,440); 5 months (\$1,960)):					
If Statutory Disclaimer under Rule 20(d) is enclosed, add fee (\$110)					+
Total of above Calculations =					\$0
Reduction by 50% for filing by small entity (37 CFR 1.9, 1.27 & 1.28)					-
TOTAL FEES DUE =					\$0

- (1) If entry (1) is less than entry (2), entry (3) is "0".  
(2) If entry (2) is less than 20, change entry (2) to "20".  
(4) If entry (4) is less than entry (5), entry (6) is "0".  
(5) If entry (5) is less than 3, change entry (5) to "3".

**RECEIVED****METHOD OF PAYMENT**

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Technology Center 2100

☐ Charge "TOTAL FEES DUE" to the Deposit Account No., below.**AUTHORIZATION**

- ☒ If the above-noted "AMOUNT ENCLOSED" is not correct, the Commissioner is hereby authorized to credit any overpayment or charge any additional fees under 37 CFR 1.16 or 1.17 necessary to maintain pendency of the present application to:

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95-427

**SUBMITTED BY: LEON R. TURKEVICH, ESQ.**

Typed Name	Leon R. Turkevich	Reg. No.	34,035
Signature		Date	February 18, 2004

Docket No.: 95-427

PATENT

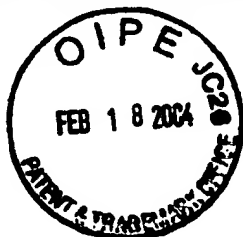
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

WHEELER, et al.

Serial No.: 09/604,880

Filed: June 28, 2000



EXPEDITED PROCEDURE  
UNDER 37 CFR §1.116

Group Art Unit: 2122

Examiner: GROSS, Kenneth A.

For: GENERIC COMMAND INTERFACE FOR MULTIPLE EXECUTABLE ROUTINES

RESPONSE UNDER 37 CFR §1.116

RECEIVED

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

FEB 18 2004

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Sir:

In response to the Final Official Action mailed December 18, 2003, the following remarks are submitted.

Reconsideration and allowance of the above-referenced application are respectfully requested. Claims 1-26 are unchanged and remain pending in the application.

Claims 1, 10, 14, and stand rejected under 35 USC 102(e) in view of U.S. Patent No. 6,138,098 to Shiber et al. This rejection is respectfully traversed. The comments submitted October 3, 2003, are incorporated in their entirety herein by reference. The following comments address the Response to Arguments in the Final Action.

The Official Action demonstrates a remarkable disregard for the legal requirements of claim interpretation and establishing a prima facie case under §102. In particular, the "broadest reasonable limitation" is not limitless: rather, the broadest reasonable interpretation cannot be inconsistent with the specification. See MPEP § 2111.01 at 2100-37 (Rev. 1, Feb. 2000) (quoting In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983)).

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2-25-04  
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The Official Action asserts that the term “generic” can be reasonably interpreted to represent “any kind of command that belongs to a general group or class.” This assertion is both without foundation, and logically inconsistent with well-known definitions. The proposed interpretation suggests that any command that is a member of a general group or class can be termed “generic”. However, this interpretation does not describe a “generic” command, but in fact describes a specific command belonging to a general group.

In fact, Webster’s Dictionary, Third College Ed., at page 562 (attached as Exhibit A) defines generic as “of, applied to, or referring to a whole kind, class, or group; inclusive or general....”

Hence, the one skilled in the art would recognize that the term “generic” relates to not a member of a class, but the common attribute of that class.

Hence, the assertion that “the pre-interpreted command represents a generic command in that it belongs to [sic] an overall set of commands used to provide functionality to some program” is nonsensical, inconsistent with the specification, and inconsistent with the use of the term “generic” by one skilled in the art. There is no indication in Shieber et al. suggesting the command can be considered generic to any common attribute of a class.

Finally, the Examiner’s interpretation of “generic” is inconsistent with the explicit claim language that specifies: the generic command is validated based on command parse tree, and one of the elements identified as a best match relative to the generic command is used to issue a prescribed command of a selected management program.

Hence, the interpretation of “generic” proposed by the Official Action is inconsistent with the interpretation that those skilled in the art would reach, and hence is unreasonable. Cf. In re Cortright, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

Further, the Official Action distorts the claim language by focusing on the specifics of when and how selection is to occur, while disregarding the explicit claim language that:

(1) the system is configured for executing a plurality of management programs according to respective command formats;

(2) a generic command is validated and an element is identified as a best match relative to the generic command; and

(3) a prescribed command for one of the management programs according to the corresponding command format is issued based on the identified one element.

Hence the claims explicitly specify that a prescribed command for one of the management programs is issued according to the corresponding command format based on identifying an element of the parse tree representing a best match relative to the generic command.

Further, the command parse tree specifies valid generic commands relative to a prescribed generic command format.

Shieber, in contrast, does not disclose the claimed command parse tree that specifies valid generic commands: Shieber discloses:

a parse tree 54 representing the word phrase 42 which was input to CFG parser 52. If several possible word phrase candidates 42 are input into CFG parser 52, a separate parse tree 54 will be produced for each word phrase candidate 42.

(Col. 6, lines 8-12).

Shieber further discloses that the parse tree 54 is rewritten by a rewriter 66 based on rewrite rules, until the parse tree 54: Figures 9, 10, 11, 12, 13 illustrate successive rewrite phases of the parse tree of Figure 8 (see e.g., col. 4, lines 20-33; col. 7, lines 49-54; col 12, line 29 to col. 16, line 30).

Hence, the parse tree represents the word phrase 42 which is subsequently rewritten. Hence, the disclosed parse tree 54 cannot disclose or suggest the claimed command tree because:

- (1) the command parse tree specifies valid generic commands relative to a prescribed generic command format;
- (2) the received generic command is validated based on the command parse tree; and
- (3) the validating step includes identifying one of the elements as a best match relative to the generic command.

Hence, (as admitted on page 4, lines 5-6 of the Office Action) a single element is identified as a best match relative to the generic command, and that single element is used to issue the prescribed command of the one management program according to the corresponding command format. Shieber, in contrast, repeatedly rewrites the entire parse tree 54 in order to convert the parse tree into a command string:

The present invention includes a system for converting a parse tree representing a word phrase into a command string for causing a computer application to perform actions as directed by said word phrase. A rewriting component applies at least one of a plurality of predefined rewrite rules to the parse tree, for rewriting the parse tree according to the rewrite rules.

(Col. 2, lines 61-67).

Rewriter 66 takes a parse tree 54 and repeatedly rewrites it. Rewriter 66 comprises of a series of 'phases' 80. Each phase 80 takes a parse tree, transforms it, and

passes the output 82 on to the next phase 80. Tree walking the final result produces a command string 72 representing an executable program.

(Col. 7, lines 49-54).

Further, Shieber does not disclose a plurality of translators as specified in claim 10, but only a single interpreter 74 used for the given system configuration (see col. 11, lines 49-63). Shieber provides no disclosure or suggestion of a plurality of translators for issuing commands for the management programs according to respective command formats, as claimed.

Hence, Shieber et al. neither discloses nor suggests a single element of the claim. Hence, the rejection should be withdrawn because it fails to demonstrate that Shieber et al. discloses each and every element of the claim (let alone any element of the claim). See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture." Studiengesellschaft Kohle mbH v. Dart Industries, Inc., 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), aff'd, 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

Claims 2-9, 11-13, 15-22, and 24-26 stand rejected under §103 in view of Shieber and U.S. Patent No. 6,397,283 to Hancock et al. This rejection is respectfully traversed. The comments submitted October 3, 2003 are incorporated in their entirety herein by reference.

The Official Action continues to fail to provide evidence that one of ordinary skill in the art would have been motivated to modify Shieber to include the teachings of Hancock.

In particular, the Official Action states that the titles for Shieber and Hancock "in themselves suggest a shared subject matter." This assertion should be prima facie grounds for

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dismissal of the rejection: references are to be considered in their entirety, and not merely based on titles that “suggest” a shared subject matter (see MPEP 2141.02 at page 2100-95 (Rev. 1, Feb. 2000) (citing W.L. Gore & Associates, Inc. v. Garlock, Inc., 22 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984))).

Moreover, “the mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.” In re Fritch, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). The assertion that “a table allows for fast lookup and parsing of a command” is both without foundation and nonsensical. There has been no evidence of any need to modify Shieber et al. to include the non-analogous teachings of Hancock. “Teachings of references can be combined only if there is some suggestion or incentive to do so.” In re Fine, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original).

In fact, applicant asserts that one skilled in the art would avoid adding the teachings of Hancock, since the necessity of additional data structures (linked lists of tokens, command tables, etc.) would unduly complicate the repeated rewrite phases performed by Shieber et al.

Regardless, the hypothetical combination neither solves nor addresses the problems contemplated by the inventor, namely enabling a simple command language to be utilized for control of multiple real time monitoring programs having respective command formats, or providing an arrangement that integrates multiple RTM programs and command and control functionality for a user, without the necessity of learning the respective command formats and syntax. An evaluation of obviousness must be undertaken from the perspective of one of

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ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir. 1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989).

For these and other reasons, the §103 rejection should be withdrawn.

In view of the above, it is believed this application is in condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a), to Deposit Account No. 50-1130, under Order No. 95-427, and please credit any excess fees to such deposit account.

Respectfully submitted,



Leon R. Turkevich  
Registration No. 34,035

Customer No. 23164  
**Date: February 18, 2004**

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**general officer** *Mil.* any officer above a colonel in rank  
**★general of the air force** *U.S. Air Force* an officer of the highest rank, with an insignia of five stars: a World War II rank  
**★general of the army** *U.S. Army* an officer of the highest rank, with an insignia of five stars: a World War II rank, not used since  
**general order** *Mil.* 1 any of a numbered series of orders under competent authority, including general directives, announcements, etc. 2 any of the permanent orders giving in general the duties of sentries  
**general paresis (or paralysis)** *PARESIS* (sense 2)  
**general practitioner** a practicing physician who does not specialize in any particular field of medicine  
**general-purpose** (jen'ər əl pur'pəs) *adj.* having a variety of uses; suitable for general use  
**General Secretary** the head of the Communist Party of the Soviet Union  
**★general semantics** a doctrine and educational movement concerned with the employment of an understanding of the relationship between symbols, esp. language, and reality to improve the adjustment of people to each other and to the environment  
**general-ship** (jen'ər əl ship') *n.* [see -SHIP] 1 a) the rank, tenure, or authority of a general b) the military skill of a general 2 highly skillful leadership  
**general staff** *Mil.* a group of officers who assist the commander of a high unit in planning, coordinating, and supervising operations  
**★general store** a store where many sorts of merchandise are sold, but not in separate departments  
**general strike** a strike by the workers in an entire industry or, esp., throughout an entire community or country  
**gener-ate** (jen'ər ət') *vt.* -at'ed, -at'ing [*< L generatus*, pp. of *generare*, to beget, produce *< genus* (gen. *generis*): see GENUS] 1 to produce (offspring); beget; procreate 2 to bring into being; cause to be [to generate hope] 3 to originate or produce by a physical, chemical, or mathematical process [to generate electricity] 4 *Geom.* to trace out or form (a curve, plane, or figure) by the motion of a point, line, or plane  
**gener-a-tion** (jen'ər ə' shən) *n.* [*ME generacioun < OFr generacion < L generatio < generatus*: see prec.] 1 the act or process of producing offspring; procreation 2 the act or process of bringing into being; origination; production 3 a single stage or degree in the succession of natural descent (father, son, and grandson are three generations) 4 the average period (about thirty years) between the birth of one generation and that of the next 5 a) all the people born and living at about the same time b) a group of such people with the same experience, belief, attitude, etc. in common [the computer generation] 6 any of the stages of successive improvement in the development of a product, system, etc. 7 *Geom.* the formation of a curve, plane, or figure by the motion of a point, line, or plane: see GENERATRIX —**gener-a-tional** *adj.*  
**gener-a-tive** (jen'ər ət'iv, -ər ə tiv) *adj.* [*ME generatif*] 1 of the production of offspring; procreative 2 having the power of producing or originating 3 of or characteristic of generative grammar  
**★generative grammar** a system of grammar consisting of a limited and unchanging set of rules employing a list of symbols and words to generate or describe every possible structure in a language: cf. TRANSFORMATIONAL (GENERATIVE) GRAMMAR  
**gener-a-tor** (jen'ər ət'ər) *n.* [*L*] 1 a person or thing that generates; specif., a) a machine for producing gas or steam b) a machine for changing mechanical energy into electrical energy; dynamo 2 GENERATRIX  
**gener-a-trix** (jen'ər ə'triks) *n., pl.* -er-a-tri'ces' (-ər ə tri'sēz', -ər ə'tri'sēz') [*L*, fem. of prec.] *Math.* a point, line, or plane whose motion generates a curve, plane, or figure  
**gen-er-ic** (jə nər'ik) *adj.* [*ML genericus*: see GENUS & -IC] 1 of, applied to, or referring to a whole kind, class, or group; inclusive or general 2 without a trademark 3 *Biol.* of or characteristic of a genus —*n.* a product, as a drug or grocery item, without a brand name: often used in pl.: also called **generic term** —*SYN.* UNIVERSAL —**gen-er-i-cally** *adv.*  
**gen-er-os-ity** (jen'ər əs'ə tē) *n.* [*ME generosite < L generositas < generosus*] 1 the quality of being generous; specif., a) nobility of mind; magnanimity b) willingness to give or share; unselfishness 2 *pl.* -ties a generous act  
**gen-er-ous** (jen'ər əs) *adj.* [*L generosus*, of noble birth, excellent, generous *< genus*: see GENUS] 1 orig., of noble birth 2 having qualities attributed to people of noble birth; noble-minded; gracious; magnanimous 3 willing to give or share; unselfish 4 large; ample [generous portions] 5 rich in yield; fertile 6 full-flavored and strong: said of wine —**gen-er-ously** *adv.* —**gen-er-ous-ness** *n.*  
**Gen-e-see** (jen'ə sē') [*< Iroquoian (Seneca)*; ? "beautiful valley"] river flowing from N Pa. across W N.Y. into Lake Ontario: c. 150 mi. (242 km)  
**gen-e-sis** (jen'ə sis) *n., pl.* -ses' (-sēz') [*ME < OE & LL(Ec) < L, birth, generation < Gr (used in LXX for Gen.) < base of gignesthai, to be born: see GENUS*] the way in which something comes to be; beginning; origin —[G-] the first book of the Bible, giving an account of the creation of the universe and a history of the patriarchs: abbrev. *Gen.*, *Gn.*, or *Ge*  
**-gen-e-sis** (jen'ə sis) [*see prec.*] combining form forming nouns origination, creation, formation, evolution (of something specified) [psychogenesis]  
**gen-et** (jen'et', -it; je net', jə-) *n.* [*ME < OFr genetie < Sp gineta < Ar jarnayt*] 1 any of a genus (*Genetta*) of small, spotted African carnivores in the same family (*Viverridae*) as the civet 2 its fur  
**Gen-et** (zhə nā') 1 Edmond Charles Édouard (ed mōn' shārl ā

1763-1834; Fr. diplomat, in the U.S. after 1793: called Genet 2 Jean 1910-86; Fr. playwright & novelist  
**ge-net-ic** (jə nēt'ik) *adj.* [*< GENESIS*] 1 of the genesis, or origination, of something 2 of or having to do with genetics 3 *GENIC* *Abb.*  
**net'i-cal** —**ge-net'i-cally** *adv.*  
**genetic code** the order in which four chemical constituents arranged in huge molecules of DNA: these molecules transfer genetic information to the cells by synthesizing ribonucleic acid in corresponding order  
**genetic drift** in evolution, a) a random change in gene frequency within a small population, resulting in mutations which, regardless of their adaptive value, become fixed within the group b) any process  
**genetic engineering** the branch of biology dealing with the isolation and recombining of specific genetic units from the DNA of organisms: it is used to modify the existing genetic codes to produce new, or improved, species, valuable biochemicals, etc.  
**ge-net-ic-ist** (jə nēt'ə sist) *n.* a specialist in genetics  
**ge-net-ics** (jə nēt'iks) *n., pl.* [*GENET(IC) + -ICS*] [*with sing. a*] 1 branch of biology that deals with heredity and variation in animals, related animals and plants 2 the genetic features or constitution of an individual, group, or kind  
**ge-ne-va** (jə nē'və) *n.* [*Du genever < OFr genevre, juniper berry, juniperus, JUNIPER*] HOLLANDS  
**Ge-ne-va** (jə nē'və) 1 city in SW Switzerland, on Lake Geneva, 159,500 2 canton of SW Switzerland, largely the city of Geneva, its suburbs: 109 sq. mi. (282 km); pop. 360,500 3 Lake (of) Geneva, SW Switzerland on the border of France: 224 sq. mi. (580 sq. km); see LEMAN, Lake  
**Geneva bands** [after the clerical garb of GENEVA Calvinists] white cloth strips hanging from the front of the collar, worn by Protestant clergymen  
**Geneva Convention** an international agreement signed at Geneva, 1864, establishing a code, later revised, for the care and treatment of the sick, wounded, and dead, and of prisoners of war, including protection of civilians and of hospitals, etc. having emblem of the Red Cross  
**Geneva cross** RED CROSS (sense 1)  
**Geneva gown** [*see GENEVA BANDS*] a long, loose, wide-sleeved gown, worn by many Protestant clergymen  
**Ge-ne-van** (jə nē'vən) *adj.* 1 of Geneva, Switzerland, esp. at the time of the Reformation 2 of or having to do with Calvinism —*n.* a native or inhabitant of Geneva 2 a follower of John Calvin  
**Ge-nève** (zhə nēv') *Fr. name* of GENEVA (the city & the canton)  
**Gen-e-vieve** (jen'ə vīv') [*Fr Geneviève < LL Genovefa < ? Gal feminine name* 2 Saint (c. A.D. 422-c. 512); Fr. nun; patron saint of Paris: her day is Jan. 3]  
**Genf** (jenf) *Ger. name* of GENEVA (the city & the canton)  
**Genghis Khan** (jen'gis kăn', jen'gis) (born Temuchin) c. 1162-1227 Mongol conqueror of central Asia  
**gen-i-al** (jēn'yāl; also jē'nē əl) *adj.* [*L genialis, of generation or < genius, guardian deity: see GENIUS*] 1 orig., of marriage or creation 2 promoting life and growth; pleasantly warm, mild, healthful [a genial climate] 3 cheerful, friendly, and sympathetic 4 [Rare] of or characterized by genius —*SYN.* AMICABLE  
**gen-i-al-ity** (jē'nē əl'ə tē; also jēn yal'ə) *n.* —**gen'i-ally** *adv.*  
**gen-i-al?** (jē nī'əl) *adj.* [*< Gr geneion, a chin (< genys, a jaw: see GENIUS)*] having to do with the chin  
**gen-ic** (jen'ik) *adj.* of, having the nature of, or caused by a person; genetic  
**-gen-ic** (jen'ik) combining form forming adjectives 1 pertaining to production or generation [phylogenetic] 2 suitable to [photogenic]  
**gen-i-cu-late** (jə nīk'yōō lit, -lāt') *adj.* [*L geniculatus < genis, dim. of genu, KNEE*] 1 having a knee-like joint 2 bent sharply  
**gen-i-cu-lated** (-lāt'id)  
**gen-ie** (jē'nē) *n.* [*Fr génie (< L genius: see GENIUS), used to translate jinn, a demon < jinn, demons*] JINNI  
**gen-i-l** (jē'nē l') *n., pl.* of GENIUS (senses 1 & 2)  
**gen-i-pap** (jen'i pap') *n.* [*Port genipapo < the Wind (Tupi) name of the brown, edible fruit, about the size of an orange, of a tree (Genipa americana) of the madder family* 2 the fruit itself]  
**gen-i-tal** (jen'i tal, -it'l) *adj.* [*ME < OFr < L genitalis < genitus, of genere, to beget: see GENUS*] 1 of reproduction of sexual organs 2 *Psychoanalysis* a) designating one of the three stages of infantile psychosexual development in which interest is centered around the genital organs b) designating one of the adult stages of psychosexual development in which conflicts have been resolved, libidinal drives regulated, and character structure gratified [genital characters]: cf. ANAL, ORAL  
**gen-i-ta-lia** (jen'i tā'lē ə, -tāl'yə) *n., pl.* [*L, short for genitalia (bra)*] GENITALS  
**gen-i-tals** (jen'i talz, -it'lz) *n., pl.* [*< GENITAL*] the reproductive organs, esp., the external sex organs  
**gen-i-ti-val** (jen'i tī'vəl) *adj.* of or in the genitive case  
**gen-i-tive** (jen'i tiv) *adj.* [*ME genitif < OFr < L (casus) genitivus*] (case) of orig. *< genitus* (see GENITAL): mistransl. *< Gr genetikos* (case), (case) of genus *< Gr genos, GENUS*] *Gram.* designating, of, or in a relational case typically expressing possession, or a partitive concept: cf. POSSESSIVE —*n.* 1 the genitive case is expressed by inflection in languages such as Latin and by an analytical construction or by inflection in English [the children of the queen; the queen's children] 2 a word or phrase in this case  
**gen-i-to-** (jen'i tō) combining form genetal and [genitourinary]  
**gen-i-to-ur-i-nary** (jen'i tō yoor'ə nēr'ē) *adj.* designating of genetal and urinary organs together

Exhibit A  
 Response After Final Filed Feb. 18, 2004  
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